

STATE FINISHES BRIEF

TO FIGHT FRANK MOTION

Solicitor Dorsey Cites Decision in Case of Cawthon vs. the State, 119 Ga., 413

Solicitor General Hugh M. Dorsey and Ed A. Stephens, his assistant, completed Saturday afternoon the State's brief on the motion to set aside the verdict in the Leo M. Frank Case. Attorney General Warren Grice, who will represent the State jointly with Solicitor Dorsey, at the hearing of the motion Monday before the Supreme Court, will have his brief prepared later Saturday afternoon.

Frank's main contention, as set out by his Attorneys, Tye, Peeples & Jordan, and Haas & Haas, and others, is that the verdict

of guilty was illegal and void because the defendant was not present when it was rendered; the State, in Mr. Dorsey's brief, answers this by the claim that Frank waived his presence, and quotes the decision in Cawthon vs. the State, 119 Ga., 413, to maintain this vital point as follows:

"It would be trifling with the Court to allow it to act upon a waiver thus made, and then impeach its action on the ground that counsel had been guilty of an unauthorized act."

The original motion to set aside the verdict was filed on April 16, 1914, and overruled by Judge Hill on June 6, 1914. It was then carried to the State Supreme Court, where the argument will be held on Monday.

One of the State's main points, as brought out in Mr. Dorsey's brief, will be that "while this is a motion to set aside the verdict, it is really, in form and effect, the 'third motion' for a new trial, or a motion in the nature of a writ of habeas corpus, neither of which can now be maintained."
